

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

POWER BUYING DEALERS USA, INC., a) Delaware corporation; CR@ZY US LLC, a North) Carolina limited liability company; and POWER) ENERGY CORPORATION, a Delaware corporation,) Plaintiffs,) v.) JUUL LABS, INC., a Delaware corporation, and) HS WHOLESALE, LIMITED, an Illinois corporation,) Defendants.)) Case No. 1:21-cv-3154 Judge Sharon J. Coleman Magistrate Judge Jeffrey T. Gilbert
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**DEFENDANTS JUUL LABS INC.'S AND HS WHOLESALE, LIMITED'S
RENEWED JOINT MOTION TO DISMISS ALL CLAIMS OF PLAINTIFFS
CR@ZY US, LLC AND POWER ENERGY CORPORATION**

Defendants Juul Labs, Inc. ("JLI") and HS Wholesale, Limited ("HSW"), by their respective undersigned counsels, hereby submit this renewed motion to dismiss with prejudice all claims asserted against them by Plaintiffs Cr@zy Us, LLC ("Crazy Us") and Power Energy Corporation ("Power Energy") (collectively, the "Non-Purchaser Plaintiffs"), pursuant to Fed. R. Civ. P. 12(b)(6). In support of this Motion Defendants state as follows:

1. Defendants originally filed a Motion to Dismiss All Claims of Plaintiffs Cr@zy Us and Power Energy on January 18, 2022. (Dkt. #61). This motion sought dismissal of Cr@zy Us and Power Energy, based on Plaintiffs' First Amended Complaint, filed on December 15, 2021. (Dkt. #52). Defendants' motion was fully briefed by both parties. (*See* Dkt. #62, 72, 81).
2. On May 23, 2022, after briefing was completed, but before the Court ruled on the motion, Plaintiffs' original counsel withdrew from this matter. (Dkt. #98).

3. On July 29, 2022, following the appearance of Plaintiffs' present counsel, the Court took the fully-briefed motion to dismiss the First Amended Complaint under advisement. (Dkt. #106).

4. On August 19, 2022, while the motion to dismiss the First Amended Complaint was under advisement with the Court, Plaintiffs filed a Second Amended Complaint. (Dkt. #112).

5. As of the instant Motion, Defendants' original Motion to Dismiss (Dkt. #61) has not been ruled upon by this Honorable Court, but the Second Amended Complaint contains the same defective allegations and claims made by the Non-Purchaser Plaintiffs' in the First Amended Complaint. (*Compare* Dkt. #52 and Dkt. #112).

6. Defendants bring this *Renewed* Motion to Dismiss, incorporating their original Memorandum of Law (Dkt. #62) and Reply in Support (Dkt. # 81). The Second Amended Complaint adds no additional paragraphs, and makes only minimal substantive changes to the allegations in the First Amended Complaint, all of which relate to the alleged geographic scope of PBD's and HSW's sales activities. The Second Amended Complaint does not include new allegations as to the relevant product market, the alleged sales of merchandise packages, or any of the other factors Defendants cited in support of their earlier motion. Therefore, the parties' prior briefing on Defendants' Motion to Dismiss adequately addresses all relevant arguments, and no updates to any record citations in the briefing are necessary.

7. Through the First Amended Complaint (Dkt. #52) and now through the Second Amended Complaint (Dkt. #112), Plaintiff Power Buying Dealers USA, Inc. ("PBD") seeks to bring the two additional Non-Purchaser Plaintiffs into this case based on alleged injuries to those parties that are wholly derivative of PBD's alleged antitrust injury. As described in detail in the Defendants' prior briefs (*see* Dkt. # 62, 81), the Non-Purchaser Plaintiffs do not state plausible

claims for violations of the Robinson-Patman Act, nor do their allegations establish standing to sue JLI or HSW under antitrust law, based on the factors in *Associated General Contractors of California v. California State Council of Carpenters*, 459 U.S. 519 (1983).

WHEREFORE, JLI and HSW respectfully request that the Court dismiss all of Cr@zy Us's and Power Energy's claims in the Second Amended Complaint.

Dated: September 9, 2022

Respectfully submitted,

Juul Labs, Inc.

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CERTIFICATE OF SERVICE

I, Elizabeth P. Mazzocco, an attorney, certify that on September 9, 2022 I caused the foregoing **DEFENDANTS JUUL LABS INC.'S AND HS WHOLESALE, LIMITED'S RENEWED MOTION TO DISMISS ALL CLAIMS OF PLAINTIFFS CR@ZY US, LLC AND POWER ENERGY CORPORATION** to be filed with the Clerk of the Court using the CM/ECF system for the District Court of the Northern District of Illinois, which will send an electronic copy of the foregoing to counsel of record and constitutes service pursuant to Local Rule 5.9 of the Northern District of Illinois.

/s/ *Elizabeth P. Mazzocco*

Elizabeth P. Mazzocco